

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

In re:

REBECCA J. TINSLEY,

Debtor.

Case No. 16-32945-KRH

Chapter 13

**NOTICE OF OBJECTION TO CONFIRMATION OF PLAN**

Henry M. Dowdy, Jr., and Roy E. Dowdy, Sr., Executors of the Estate of Henry M. Dowdy, Sr., deceased, have filed papers with the Court objecting to the confirmation of the above-named debtor's Chapter 13 Plan dated June 13, 2016.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)**

If you do not want the court to grant the relief sought in the objection, or if you want the court to consider your views on the objection, then you or your attorney must attend the hearing scheduled to be held on August 17, 2016, at 11:10 a.m., in Judge Huennekens' Courtroom, Room 5000, United States Bankruptcy Court, 701 East Broad Street, Richmond, Virginia 23219.

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*Counsel for Henry M. Dowdy, Jr.,  
and Roy E. Dowdy, Sr., Executors*

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in objection and may enter an order granting that relief.

This 9<sup>th</sup> day of August, 2016.

HENRY M. DOWDY, JR., and  
ROY E. DOWDY, SR., Executors of the  
Estate of Henry M. Dowdy, Sr., deceased

By: /s/ Trevor B. Reid  
Counsel

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In re:

REBECCA J. TINSLEY,

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Chapter 13

**OBJECTION TO CONFIRMATION OF  
CHAPTER 13 PLAN DATED JUNE 13, 2016**

COME NOW Henry M. Dowdy, Jr., and Roy E. Dowdy, Sr., Executors of the Estate of Henry M. Dowdy, Sr., deceased (collectively, the “Executors”), by counsel, and object to the confirmation of the Chapter 13 Plan dated June 13, 2016 (the “Plan”) [ECF 2], filed herein by debtor Rebecca J. Tinsley (“Debtor”). In support thereof, the Executors state as follows:

**Parties and Jurisdiction**

1. The Debtor filed her petition for relief under Chapter 13 of the Bankruptcy Code (the “Petition”) [ECF 1] on June 13, 2016.
2. The Executors are interested in this matter as a secured creditor, as more particularly set forth below.

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3. This is a core proceeding and a contested matter over which this Court has jurisdiction pursuant to 28 U.S.C. §§ 157, 1334, and Fed. R. Bankr. P. 3015, 9014.

### **Factual Background**

#### **A. The Loan and Deed of Trust**

4. Between July 1, 2008, and July 1, 2011 Henry M. Dowdy, Sr. (“Mr. Dowdy”), made various loans to the Debtor and her husband, John Tinsley (“Mr. Tinsley”), in the aggregate amount of \$211,000.00 (collectively, and as more particularly described in the Deed of Trust described below, the “Loan”).

5. As security for the Loan, the Debtor and Mr. Tinsley executed a deed of trust dated July 1, 2011 (the “Deed of Trust”), encumbering a parcel of real property situated in New Kent County, Virginia, containing approximately 3.84 acres, briefly described as Tax Map No. 20-56, with improvements thereon commonly known as 3653 Poverty Hill Road (the “Property”). The Deed of Trust was duly recorded in the Clerk’s Office of the Circuit Court of New Kent County, Virginia, on December 20, 2011, in Deed Book 600, page 22. A true and accurate copy of the Deed of Trust is attached hereto as Exhibit “A”.

6. The Loan was in default at the time the Petition was filed. The Debtor proposes to cure some \$75,600.00 in arrearages in the Plan, while making future mortgage payments outside the Plan. Plan § 5.

#### **B. The Executors**

7. Mr. Dowdy died on April 25, 2014.

8. On May 30, 2014, Henry M. Dowdy, Jr., and Roy E. Dowdy, Sr., qualified as executors of Mr. Dowdy’s estate.

9. The Executors are the current holder of the obligations secured by the Deed of Trust.

### **Grounds for Relief**

10. The Deed of Trust provides for regular monthly payments in the amount of \$1,600.00, due on the 15<sup>th</sup> of each month. Although the Plan calls for the Debtor to make regular monthly payments outside the Plan, the Debtor has made no payments since the petition date. As of August 15, the outstanding arrearages will have increased by \$4,800.00 (representing the delinquent payments for June, July and August).

11. The mere fact that the Debtor is currently failing to make regular payments, compounding the already substantial arrearages, is itself evidence of a lack of good faith in proposing the Plan.

12. Moreover, the Plan is not feasible; as matters now stand, it is evidently underfunded. The Debtor proposes to pay a total of \$89,700.00 into the plan. After expenses of administration, this amount is barely sufficient to pay the arrearages on the Loan (which by August 15 will have reached at least \$80,400.00) and the professional fees listed under Section 2 of the Plan (\$5,100.00)—leaving no possibility of paying the 100% dividend to unsecured creditors proposed under Section 4.

13. Based upon the foregoing, the plan is not feasible and is not proposed in good faith, and confirmation should therefore be denied pursuant to 11 U.S.C. §§ 1325(a)(3) and (a)(6).

WHEREFORE, Henry M. Dowdy, Jr., and Roy E. Dowdy, Sr., Executors of the Estate of Henry M. Dowdy, Sr., deceased, pray that this Court enter an order (A) declining to confirm the

Debtor's Chapter 13 Plan dated June 13, 2016, and (B) granting the Executors such other and further relief as the Court may deem appropriate.

This 9<sup>th</sup> day of August, 2016.

HENRY M. DOWDY, JR., and  
ROY E. DOWDY, SR., Executors of the  
Estate of Henry M. Dowdy, Sr., deceased

By: /s/ Trevor B. Reid  
Counsel

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*Counsel for Henry M. Dowdy, Jr.,  
and Roy E. Dowdy, Sr., Executors*

### **CERTIFICATE**

I hereby certify that I caused a true and accurate copy of the foregoing to be served on the following persons via first-class U.S. mail, postage prepaid, and/or via CM/ECF, this 9<sup>th</sup> day of August, 2016:

Aubrey F. Hammond, Jr., Esq.  
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*Counsel for the Debtor*

Rebecca J. Tinsley  
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*Debtor*

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*Chapter 13 Trustee*

/s/ Trevor B. Reid